97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-688

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AMENDMENTS

DECEMBER 18 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

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Mr. COHEN, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2623]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

"DEFINITIONS

"SEC. 2. (a) for purposes of this Act, the term—";

(2) by striking out "and is eligible to receive services from the Secretary of the Interior" in paragraph (1);

(3) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(4) by striking out paragraph (7) and inserting in lieu thereof the following:

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"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.".

SEC. 2. Section 101 of the Act is amended—

(1) by inserting "as a fulfillment of a continuing trust responsibility of the Federal Government as it relates to education for Indian students and" after "colleges"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physical resources of such institutions".

SEC. 3. (a) Section 102 of the Act is amended—

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college".

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds.".

SEC. 4. (a) The Act is amended—

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

"PLANNING GRANTS

"SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purposes of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such colleges.

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.".

(b) The Act is further amended—

(1) by striking out "section 106" in section 106 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 107 (as so redesignated) and inserting in lieu thereof "section 106"; and

(3) by striking out "section 106(a)" in section 111 (as so redesignated) and inserting in lieu thereof "section 107(a)".

SEC. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended—

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

SEC. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY";

(2) by striking out "feasibility" each place it appears in such section and inserting in lieu thereof "eligibility";

(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education";

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and

(5) by striking out "10 per centum" in subsection (c)(2) and inserting in lieu thereof "5 per centum".

(b) Section 107 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligibility", and

(2) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Secretary of Education".

SEC. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"SEC. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

"(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

"(2)(A) $4,000 for fiscal year 1983,

"(B) $4,000 for fiscal year 1984,

"(C) $5,025 for fiscal year 1985,

"(D) $5,415 for fiscal year 1986, and

"(E) $5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.".

SEC. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921, because of the funds it receives under this Act.

"(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act.".

SEC. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, $3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized to be appropriated for carrying out section 107, $30,000,000 for each of such fiscal years.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out sections 112(b) and 113 for each of such fiscal years.

"(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

"(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).".

SEC. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection

(c) and by striking out subsection (a) and inserting in lieu thereof the following:

"SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to the product of (i) the per capita payment for the preceding fiscal year, and (ii) such applicant's Indian student count for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who did not receive funds under such section for the preceding fiscal year, in the order in which such applicants have qualified for assistance in accordance with such section, and no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

"(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B) the Secretary shall allocate such funds by ratably increasing the amounts of the grant determined under such subparagraphs.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

"(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.".

SEC. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"REPORT ON FACILITIES

"SEC. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).".

SEC. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"CONSTRUCTION OF NEW FACILITIES

"SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

"(b) In order to be eligible for a grant under this section, a tribally controlled community college (1) must be a current recipient of grants under section 105 or 107, and (2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

"(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required

portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

"(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

"(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

"(1) the applicant ceases or fails to be a public or nonprofit institution,

"(2) the facility ceases to be used by the applicant as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

"(3) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

the United States shall be entitled to recover from such applicant (or its successor in title or possession) and amount which bears the same ratio to the value of the facility at the time as the amount of the grant under this section bore to the cost of the facility constructed with the aid of such grant. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

"(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

"(f) For the purposes of this section, the Secretary shall have the authority granted to the Secretary of Education pursuant to section 732(b) of the Higher Education Act of 1965 (20 U.S.C. 1132d–1) with respect to construction under title VII of such Act.

"(g) For the purposes of this section—

"(1) the term 'construction' includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B))); and

"(2) the term 'academic facilities' has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132–1(1)).".

SEC. 13. The Act is further amended by adding at the end thereof the following new title.

"TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

"PURPOSE

"SEC. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

"ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

"SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year.

"(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

"(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

"(2) provides for the deposit in such trust fund of—

"(A) any Federal capital contributions made from funds appropriated under section 306;

"(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

"(C) any earnings of the funds so deposited;

"(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

"(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

"(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

"(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

"USE OF FUNDS

"SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operations of such col-

lege, including expense of operation and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"COMPLIANCE WITH MATCHING REQUIREMENT

"SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

"ALLOCATION OF FUNDS

"SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $350,000.

"(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 306. (a) There is authorized to the appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987 to carry out this title.

"(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.".

SEC. 14. (a) In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.

(b) Any such regulations and any other regulations promulgated pursuant to the Act shall be subject to section 431 of the General Education Provisions Act, and the requirements of such section applicable to the Secretary of Education shall apply to the Secretary of the Interior with respect to such regulations.

(c) If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act

and the application of such provision to other persons or circumstances shall not be affected thereby.

And the House agree to the same.

WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,
Managers on the Part of the Senate.

CARL D. PERKINS,
PAUL SIMON,
WILLIAM D. FORD,
PETER A. PEYSER,
JOSEPH M. GAYDOS,
TED WEISS,
IKE ANDREWS,
DENNIS E. ECKART,
DALE E. KILDEE,
PAT WILLIAMS,
JOHN ERLENBORN,
E. THOMAS COLEMAN,
ARLEN ERDAHL,
WENDELL BAILEY,
LARRY E. CRAIG,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) The Senate bill and the House amendment contain provisions renumbering a previously unnumbered section. The House recedes.

(2) The House amendment strikes out language in section 2 of the Tribally Controlled Community College Assistance Act of 1978 "and is eligible to receive services from the Secretary of the Interior" in the definition of Indian. The Senate bill has no such provision. The Senate recedes. The conferees intend that the determination of tribal membership be left to the tribe, which is consistent with the policy of self-determination. As the House report makes clear, the conferees intend that the definition of Indian for the purposes of this program shall apply only to those qualified by the tribe to participate fully in tribal affairs. There should be no separate tribal definition of membership for the purposes of this program alone. The conferees intend to reach several problems of definition caused by the Bureau's restrictive interpretations; i.e. restrictions to one-quarter blood quantum. The conferees intend to retain the limitation of this Act to federally recognized tribal entities and members and also intend to have benefits extended to tribal members without restrictions as to blood quantum.

(3) The House amendment amends Section 101 of the Act to make clear that this program is carried out pursuant to the trust responsibility. The Senate bill has no similar provision. The Senate recedes. The conferees are aware that the Administration has expressed substantial concern over this provision in the bill, going so far as to threaten a potential veto if it is included. However, the conferees believe that in the area of the education of Indian people, Federal policy should be clear and unequivocal.

However, the conferees are not unmindful of the concerns of the Administration, at least as they have been publicly stated. Though the concerns of the Administration have been set out in several ways in several forums, they have always remained substantially the same. They are most clearly and completely stated in the letter dated August 18, 1982, addressed to the Senate Select Committee Chairman and included in the Senate Report at page 17. The conferees agree with the Administration that "tribal needs vary" and that "the Federal response to them should vary". That is the purpose of this legislation, and the thrust of these amendments. The conferees agree that requiring the Federal government to provide services regardless of need would not be "good government".

However, that is not what the inclusion of the clarification of the trust responsibility does. This responsibility, which arises from the government-to-government relationship (and is not, as the Administration letter implies, separate from it) already exists. Its specific citation in this legislation does not, in any way, shape or form, imply or specifically authorize or mandate "an absolute responsibility to provide" funding for a community college regardless of the other strictures in the bill. The inclusion of the "trust" language (which traditionally has carried with it the understanding of fiscal support to the dependent by the guardian) is not meant to extend Federal policy regarding Indian education, and it is not to be interpreted as any extension of policy. The phrase was included to clarify an existing policy. The inclusion of this very general "trust responsibility" language should in no way be construed to mean the United States is liable to fund Indian education, other than those programs authorized and funded by appropriate Acts of Congress.

Tribally Controlled Community Colleges are to be funded pursuant to the terms of this Act and the regulations promulgated pursuant to it. That means that these schools receive funding only after meeting all of the requirements established with respect to need (the conferees assume that the use of the term "real need" in the Administration's letter is not intended to indicate that the Secretary intends to use an extra-legal unstated test). The inclusion of language clarifying the policy basis for this program in no way alters its requirements. In truth, the conferees are in complete agreement on this point and no other interpretation is accurate or warranted.

To again restate their position, the inclusion of this language is for clarification only, to recognize a state of affairs which the conferees agree already exists. It pertains to the policy rationale for this program and its administration and does not create, alter, extend or amend the current rights and responsibilities of either the schools or the administering entity.

By making this lengthy and detailed explanation, the conferees hope that they have resolved the concerns of the Administration and that the inclusion of this provision will cause no further problem. Certainly, the conferees believe they have answered and met all of the stated concerns.

(4) The House amendment expands the authorized expenditures to include operation and maintenance, including administrative, academic, community and student service programs and technical

assistance. The Senate bill expands the definition to all purposes mentioned in the House bill except community and student services and technical assistance. The House recedes. The conferees intend that the purposes stated in this provision are not to be construed so narrowly as to exclude direction of limited amounts of funds to community and student services programs and technical assistance designed to maximize the effectiveness and reach of the postsecondary education program of the colleges. The conferees further intend that the terms of this provision be interpreted so as to increase, rather than decrease, the flexibility of these institutions in meeting the postsecondary educational needs of the communities that they serve.

(5) The Senate bill and the House amendment make technical amendments to Section 105 of the Act (as redesignated). The House recedes.

(6) The Senate bill redesignates, in Section 106 of the Act (as redesignated) "Assistant Secretary of Education of the Department of Health, Education and Welfare" as the "Secretary of Education". The House has no similar provision. The House recedes.

(7) The Senate bill redesignates, in Section 107 of the Act (as redesignated) "Assistant Secretary of Education of the Department of Health, Education and Welfare" as the "Secretary of Education". The House has no similar provision. The House recedes.

(8) The House amendment prevents the offset of funds received under this Act by the Secretary of the Interior in cases where the tribe has allocated "Snyder Act" funds to the college. The Senate language differs, but intends to achieve the same objective. The House recedes. The conferees intend that this provision assure that a tribe's allocation of "Snyder Act" funds to its community college will not result in an offset of funds for the college under this Act. The conferees note that such an offset was attempted by the Secretary on several occasions. The conferees want to make it clear that such action by the Secretary is not within the letter or the intent of this Act. A tribe's decision to allocate a portion of its "Snyder Act" funds is acknowledged to be a commitment of additional support and should not be obstructed.

The conferees also intend that Public Law 471 funds may not be used to offset "Snyder Act" funds.

(9) The House amendment amends Section 110(b) of the current Act to effect forward funding. The Senate bill contains similar language. The House recedes with an amendment. The amendment clarifies the forward funding provision in both bills. The amendment is to bring this program into conformity with other education programs.

(10) The House amendment amends Section 110(c) of the current Act to allow funds to remain available for use until expended, unless otherwise provided in appropriations legislation. The Senate bill amends Section 110(b) of the current Act so that funds would become available on July 1 of the year in which they are appropriated and remain available until September 30 of the succeeding year. The House recedes with an amendment. The amendment provides that funds appropriated to carry out the Act shall become

available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(11) The House amendment amends Section 111(a)(1)(A) of the current Act to allocate grant funds first to schools participating under the program in the preceding fiscal year. The Senate bill includes those schools which were eligible but unfunded in the preceding fiscal year in the initial allocation of funds. The Senate recedes.

(12) The House amendment amends Section 111(a)(1)(B) of the current Act to allocate funds next to qualified applicants who were not funded in the preceding fiscal year, in the order in which they qualified as eligible for this program under Section 106(b) [as redesignated by Section 4(a)(1)]. The Senate bill allocates funds next to applicants other than those funded under Section 111(a)(1)(B) of the Act (as amended). The Senate recedes.

(13) The Senate bill and the House amendment contain similar provisions regarding a report by the General Services Administration on facilities. The House recedes.

(14) The Senate bill contains an authorization for new construction. Funds would be made available for fiscal years 1985, 1986, and 1987 on a matching basis. The bill provides for the waiver of the tribal portion, and other provisions dealing with the use of facilities funded under this section. The House amendment has no similar provision. The House recedes. The conferees specifically intend that the use of endowment funds for construction and maintenance of facilities be permitted.

(15) The Senate bill establishes a new Title III—endowment program. Endowment funds are authorized at a level of $5 million per year for fiscal years 1985, 1986, and 1987. Colleges participating in programs authorized under either Title I or Title II of the Tribally Controlled Community Colleges Act of 1978 are eligible for up to $350,000 per year on a one-to-one Federal-tribal matching basis. Funds are to be invested in a federally insured account, with the interest earned available to the institution. This provision is designed to assist the colleges in utilizing private sources of funding and in establishing stable independent funding mechanisms. The House amendment contains no similar provisions. The House recedes. The conferees intend that the schools be able to use funds they receive under the "Snyder Act" to meet their matching percentage.

(16) The House amendment provides that any regulations promulgated pursuant to this program will be subject to the provisions of Section 431 of the General Education Provisions Act. The Senate bill contains no similar provision. The Senate recedes with an amendment. The conferees wish to make it very plain that while the provisions of Section 431 will apply, the Congressional Commit-

tees to which the references in that Section will apply are the Committee on Education and Labor of the House and the Select Committee on Indian Affairs of the Senate.

WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL K. INOUYE,
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Managers on the Part of the Senate.

CARL D. PERKINS,
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ARLEN ERDAHL,
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